

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2885 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No.

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AMRUTLAL CHUNILAL PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR NK PAHWA FOR M/S THAKKAR ASSOC. for Petitioner  
MR HL JANI, AGP, for Respondents Nos.1 to 3.  
MR BT RAO, ADDL STANDING COUNSEL for Respondent No.4.

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 23/07/98

ORAL JUDGEMENT

In this writ petition under Article 226 of the Constitution of India, the detenu Amrutlal Chunilal Patel, who is detained pursuant to the order of detention dated 26-3-98 passed by the District Magistrate, Sabarkantha at Himatnagar under section 3(2) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred

to as "the Act") has challenged the same . The said order of detention was passed with a view to preventing the detenu from acting in any manner prejudicial to the supply of commodities essential to the community.

Since this petition is required to be allowed on the first contention advance by Mr. Pahwa for the petitioner that the petitioner was supplied with the illegible documents with the result the petitioner could not make an effective representation, it is not necessary to refer to and deal with the other contentions advanced and to re-narrate the allegations made in the grounds of detention supplied to the petitioner. Mr. Pahwa submitted that the detaining authority has supplied the relevant documents alongwith the grounds of detention. However, pages 19 and 27 of the compilation of the documents supplied to the petitioner which are the permits issued by the concerned Mamlatdar for lifting the goods are illegible. Perusing the same, it is clear that none of ther words and/or figures appearing in these documents is legible. Mr. H.L.Jani, learned AGP also showed his inability to decipher the words and figures stated therein. Mr. Jani , however, submitted that these docments are not relevant and nothing turns thereon affecting the order of detention passed by the detaining authority in view of the fact that the detenu himself has admitted in his statement before the authorities. It is not possible to accept the submission made by Mr.Jani for the simple reason whether a particular document is relevant or not is required to be seen with the eyes of the detenu. There is nothing to show that the documents in question are the only documents issued by the concerned Mamlatdar. In any case, it is not open for this Court to enter into the merits of the case. However, in view of the fact that since the aforesaid two documents supplied to the petitioner are undisputedly illegible it resulted in denial to the petitioner of his right to make an effective representation guaranteed under Article 22(5) of the Constitution of India. Therefore, the continued detention of the petitioner is vitiated.

In the result, this petition is allowed. The order of detention dated 26-3-98 is quashed and set aside. The detenu Amrutlal Chunilal Patel is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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